Appendix A

UNITED STATES BANKRUPTCY COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

IN RE:	:	Case No. 04-13819
U.S. AIRWAYS GROUP, INC.,	:	Jointly Administered
et al.,	:	
Debtors.	:	(Chapter 11)

Thursday, January 6, 2005

U.S. Bankruptcy Court

Alexandria, Virginia

The above-entitled action came on to be heard before the HONORABLE STEPHEN S. MITCHELL, Judge for the United States Bankruptcy Court for the Eastern District of Virginia, Alexandria Division, beginning at approximately 9:34 a.m.

whether it believes each of the plans meets the distress test.

THE COURT: Okay. Before making my ruling on the remaining issues, I certainly do want to commend the parties for what is, obviously, the hard work that was involved. Usually, last minute agreements means people have stayed up late and worked hard. And I am appreciative of the efforts of counsel.

And with respect to the non-union-represented retirees here today, I am appreciative of the efforts of the Retiree Committee. Unlike the lawyers, who are being paid for their efforts in this case, they're not being paid. Obviously, their self-interest was a motivating factor there. That's why they were appointed to the Committee in the first place.

Even so, I know that all of these negotiations have taken place over a time period in which most people would like to be with their families and enjoying the holidays. As I say, I am appreciative.

Even as to the matters that still remain disputed, I also do want to express my appreciation to counsel for what I thought were well-focused and well-tried presentations. These issues are never easy ones to make, but to the extent that anything can make the Court's job easier, it's when the lawyers do a good job of presenting the evidence on each

side. And even though I may have a hard time making a decision, at least I go into the decision-making process knowing that I have all of the relevant information, which is about all that I can ask for under the circumstances.

This matter is before the Court on what can only be characterized as a sweeping motion by the debtor in possession airline to reject certain collective bargaining agreements with its unionized work force, to eliminate retiree medical benefits for its retired work force, and to terminate three defined benefit pension plans.

Hearings were held on December 2nd, 3rd, 9th, 10th, 14th, 16th, and 17th and were continued over until today's date for a ruling, as well as to permit ratification votes by two unions, the Communication Workers of America and the Association of Flight Attendants, that had reached agreements with the debtor during the hearing with respect to modifying their collective bargaining agreements.

Those modifications have been ratified by the union members. Additionally, since the matter was continued over, the committee representing the retirees, as well as the one union which was representing its retirees -- that is, the IAM -- have reached agreement with the debtor on the -- with respect to the motion to eliminate the retiree medical benefits. And I will not, therefore, be making rulings today with respect to those aspects of this broad motion.

That leaves for consideration the motion by the debtor-in-possession to reject the collective bargaining agreement -- the three collective bargaining agreements with the bargaining groups represented by the International Association of Machinist and Aerospace Workers, or IAM, as well as the motion to approve a distress termination of three mainline defined benefit pension plans.

Under 28 USC Sections 1334 and 157(a) and the general order of reference from the U.S. District Court for the Eastern District of Virginia, dated August 15, 1984, I have subject matter jurisdiction over the remaining issues before me here today.

The motion to reject the collective bargaining agreement and the motion to approve the distress termination of the defined benefit pension plans are both core proceedings over which a final judgment or order may be entered by a bankruptcy judge, subject, of course, to the right of an aggrieved party to appeal.

By way of background, U.S. Airways, Inc. is the seventh-largest airline in the United States. Together with its parent holding company and three affiliates, it filed a voluntary Chapter 11 petition in this Court on September 12, 2004, and has continued since that date to operate its business as a debtor-in-possession. A plan of reorganization has not yet been proposed.

This is the company's second Chapter 11 filing in approximately two years. The previous Chapter 11 case was filed in August 2002. During that case the company's unionized employees, including those working -- excuse me -- represented by the IAM, agreed to two rounds of concessions.

Additionally, the defined benefit pension plan maintained by the company for its pilots was terminated under the -- as a distress termination. A plan of reorganization was then confirmed in March of 2003.

The evidence shows that upon emergence from the first Chapter 11 case U.S. Airways had what appeared to be a sound business plan based on its continued operation as a traditional hub and spoke carrier. Its financial performance, however, did not meet the -- all of the projections upon which the business was based.

For example, passenger revenue per available seat-mile was only 9.3 cents rather than the projected 10.4 cents, while fuel prices were $1.14 per gallon rather than 80.5 cents per gallon. The result was an operating loss from 2003, the year of emergence, of $460 million, and a loss for 2004 of $700 million.

This failure to achieve its financial projections, the company contends, and the evidence supports, resulted in large measure from the then unforeseen effect that the growth of low cost carriers was having on the market. Such

carriers, exemplified by Southwest Airlines, Jet Blue Airlines, and America West Airlines, now have an approximately 31 percent share of the market and a combined market capitalization exceeding that of the legacy carriers, such as American Airlines, United Airlines, Delta Airlines, and U.S. Airways.

This competition from low cost carriers who are increasingly able to dictate prices in the marketplace has been exacerbated by a dramatic rise in the last year or so in the cost of jet fuel.

After examining its situation, U.S. Airways determined that it could not survive as a traditional or legacy carrier, but would have to transform itself into a low cost carrier. More specifically, into what has been described as a hybrid low cost carrier on the model of America West. Hybrid here refers to a mixture of both point to point flying together with some hub and spoke operations.

In order to operate under such a model, U.S. Airways, which has one of the higher costs per available passenger mile, or CASM, in the industry, determined that it had to reduce its cost to a level competitive with that of the successful low cost carriers.

U.S. Airways' CASM at the time it sought the relief now being requested was approximately 9.9 cents per mile, of which 4.2 cents represented labor costs.

Those labor costs are some 35 percent higher than those even at Southwest Airlines, which has the highest labor cost among the low cost carriers.

Since America West was the closest to the model of the hybrid carrier that U.S. Airways wanted to become, U.S. Airways has attempted, first through negotiations with its labor groups and then through the present motion to achieve cost reductions that represented a combination of wage scales similar to those of America West combined with productivity rules similar to those at Jet Blue, plus an additional 15 percent the company determined was needed to achieve profitability on a going forward basis.

Based on this analysis, U.S. Airways calculated a dollar amount of concessions, which has been referred to in the testimony as the ask that it has sought from each of its labor groups.

U.S. Airways has reached agreements with the pilots, flight attendants, passenger service agents, and members of the transport workers union, but not with the International Association of Machinists.

U.S. Airways is a party to three collective bargaining agreements with groups represented by the IAM. One agreement is with the mechanics and related employees, one with the fleet service employees, and one with the maintenance training specialists.

The mechanics and related employees and the maintenance training specialists are represented by District Lodge 142 of the IAM, while the fleet service employees are represented by a different district, District 141.

Rejection of a collective bargaining agreement in bankruptcy is governed by Section 1113 of the Bankruptcy Code. Section 1113 was enacted in part to refine and codify and in part to overrule the ruling of the Supreme Court in National Labor Relations Board v. Bildisco & Bildisco, which was at 465 U.S. 513, decided in 1984.

The Supreme Court in Bildisco affirmed that a collective bargaining agreement as an executory contract may be rejected by a trustee or by a Chapter 11 debtor-in-possession upon a showing that the contract is burdensome to the estate.

Because of the special status of collective bargaining agreements, however, and the national labor policies of avoiding labor strife and encouraging collective bargaining, the court held that rejection was held to a higher standard than the simple business judgment standard applied to executory contracts generally.

In particular, the court held that national labor policy generally favored allowing employers and unions to reach their own agreements on terms and conditions of employment, free from governmental interference.

And before acting on a petition to modify or reject a collective bargaining agreement, the Bankruptcy Court should be persuaded that reasonable efforts to negotiate a voluntary modification have been made and are not likely to produce a prompt and satisfactory solution. And that a bankruptcy court should step into the process only if the parties' inability to reach an agreement threatens to impede the success of the debtor's reorganization.

The court further held, however, that an employer did not commit an unfair labor practice by unilaterally imposing changes in pay and working conditions pending court approval of the rejection.

Congress responded to the decision in Bildisco by enacting Section 1113. Section 1113 allows a trustee or a debtor-in-possession to reject a collective bargaining agreement only if specific requirements are met. And it prohibits unilateral modification of pay and working conditions prior to Court approval of the rejection -- although there is a provision for the court, after noticing a hearing, to provide for interim relief from the agreement.

The requirements before a collective bargaining agreement may be rejected are that prior to any hearing on the application to reject the agreement, the trustee or debtor-in-possession must first make a proposal to the authorized representative of the employees covered by the

agreement based on the most complete and reliable information available at the time of the proposal, which provides for those necessary modifications in the benefits and protections that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor, and all of the affected parties are treated fairly and equitably.

The debtor-in-possession or trustee must also provide the representative of the employees with such relevant information as is necessary to evaluate the proposal and must meet at reasonable times with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such agreement.

Before the Court can approve the rejection, the Court must find that the trustee or debtor-in-possession has gone through those steps. And in addition, the Court must find that the authorized representative of the employee has refused to accept the proposal without good cause and that the balance of the equities clearly favors rejection of the agreement.

In this case, prior to the filing of this agreement, the company did make a motion for interim relief from the collective bargaining agreement. And after a hearing, the Court granted a temporary 21 percent pay cut and permission for the company to continue to outsource heavy maintenance on the company's Airbus aircraft.

With respect to the -- thereafter the evidence shows that the company presented a proposal in early November and prior to the filing of the present motion for the modifications to the three collective bargaining agreements and offered and agreed to meet with the representatives of the union.

As I stated earlier, the company had basically determined for each of its labor groups a dollar amount of concessions it sought. And the specific proposals that it presented for changes in wages and benefits and other factors were accompanied by the company's valuation of each of the components of the proposal.

The evidence shows, however, that the company was not insistent upon any particular changes, but was insistent on the total dollar amount of the concessions to be achieved, and the company was willing to negotiate trade-offs or various methods of achieving the ask provided the dollar target was met.

In each case, the -- with respect to each of the three agreements and the two bargaining representatives, since there were different districts of the IAM, the company provided, as I say, the proposal. It provided its cost analysis of the savings to be achieved by each component of the proposal. And it also provided its current -- then current business plan, which has been referred to as

transformation plan 3.0, which has since been superseded by transformation plan 3.1.

It also agreed and expressed its willingness to provide additional financial information as requested by the union. It met promptly with the -- with the union, but no serious negotiations took place in the sense that the union spent a lot of time -- and of course, I am talking about the situation as it existed as of December 17th, the last day of the hearings.

I read the newspapers like everybody else. I understand there have been meetings since then. But in terms of what's formally before me, while there are a lot of meetings by the union negotiating committee itself, there were very few meetings with the debtor, although the debtor consistently offered to meet at any time with the members of the union's negotiating committee.

The union itself never made a formal counter proposal. At best, it offered what might be fairly characterized, I guess, as trial balloons, particular suggestions that might result in some measure of savings, but no comprehensive proposal that achieved the savings or even anything closely approaching the savings that were being sought by the company.

There has been no evidence presented here today that the savings that the debtor was asking for from the

labor groups represented by the IAM were unnecessary or were disproportionate to the savings being asked from any of the other different labor groups -- at least any of the other unionized labor groups.

There has been an argument made that the group consisting of -- well, call it the management employees, but it includes also just general headquarters people -- and the like were being asked to take a smaller wage cut than the IAM employees were being asked to take.

But in terms of the total amount of the dollar concessions being sought, there was no evidence that those were not, in fact, necessary or were disproportionate, as I say, to the dollar amounts being sought from the other labor groups.

With respect to the mechanical and related, the ask was on an annualized average basis over the period 2005 to 2009, $169 million per year from amendments to the collective bargaining agreement.

With respect to the mechanical and related, the wage cuts were, perhaps, not as dramatic being requested as those of the other labor groups, but perhaps of more concern to the union, more than one-half of the savings to the company, some 114 of the $169 million, would come from outsourcing, as well as from complete elimination of one of the categories of employees, the utility men, who are the

folks who clean the airplanes between flights.

The company's proposal would have eliminated all restrictions on the company's ability to outsource. And while there were representations as to the -- what jobs the company intended still to keep in-house, the proposal did not include those as guarantees. And the evidence was that if implemented, the company's proposal would result in at least half of the IAM-represented employees losing their jobs.

The ask of the fleet service employees was $99 million on an annual average basis, while for the maintenance training specialists it was $860,000.

The wage cuts for each of the groups varied rather widely. For mechanics it was only 5.6 percent at top of scale. And I might add, most of U.S. Airways employees are at top of scale, based on seniority.

On the other hand, the stock clerks would have their pay cut 21 percent. Fleet service employees would be cut 22 percent at the -- I will call the major airports, and 35 percent at some other airports. Maintenance training specialists' pay would be cut 18 percent.

So that's, essentially, the background.

The question before the Court is, first of all, whether the debtor complied with the procedural requirements under Section 1113. Clearly, here it made a proposal to the authorized representative of the employees that are covered

by the three collective bargaining agreements. And the evidence is that that proposal was based on the most complete and reliable information available at the time.

Second, the question is whether it provided for those necessary modifications to the employee benefits and protections that are necessary to permit the reorganization of the debtor. Here, of course -- and I have read through each of the term sheets involved -- one could, obviously, quibble with any particular element as to whether that was necessary. But the company never took the position that each line item was necessary. The position it took from the outset was that the dollars were necessary, and how those dollars were achieved was open to negotiation. The company's proposal achieved the cost targets, but it was open to and expressed a willingness to consider other approaches that would achieve the same dollars.

So viewing -- not line item by line item, but viewing the aggregate of the proposal, I find that the proposal provided for necessary modifications that were necessary to permit the reorganization of the debtor.

And second question is whether it assures that all creditors, the debtor and all of the affected parties, are treated fairly and equitably. And I am going to come back to that in a moment, because it's really tied up with the test that the Court finally has to make, which is whether the IAM

refused to accept the proposal without good cause, and second, whether the balance of the equities clearly favors rejection of the agreement.

The issue with respect to whether the IAM refused to accept the proposal without good cause is simply this: Is the test a subjective one or an objective one? Because if the test were purely subjective, I would be hard-pressed to find that the IAM refused to accept the proposal without good cause. They were being asked, after all, essentially, to cut their own throats, and in a way that was qualitatively different from that of the other employees' groups, who, by and large, were not losing jobs. There was probably some job loss in the other labor categories, but the dollar savings were being realized more in terms of pay and benefits.

It is simply, in human terms, difficult to expect that people will feel that there is good cause simply out of concern for the larger group for one-half of them to lose their jobs. But I believe the statute here must be construed as requiring that the good cause be determined on an objective basis rather than a purely subjective basis.

And here I would have to say that the refusal of the IAM to accept the proposal, not each individual line item or even the amount of lay-offs, but to accept some proposal or to come up with some proposal of its own that would achieve the costs being sought, was not objectively

reasonable. The union has not shown that the amount of the ask exceeds what is necessary for the company's survival or reorganization or that it is disproportionate to the cuts that other labor groups have been asked to take or the creditors will likely suffer in this case.

Now, we do not yet have a plan of reorganization. We have a transformation plan, which is the company's business plan, but that doesn't tell us how claims are going to be treated in this case. But simply looking at the company's cash position and cash balances on a going forward basis and the amount of its debt, it is clear that creditors are going to take a very substantial hit in this case. And equity is, obviously, not going to come out unscathed. It may not be entirely terminated, but if equity does survive, it will, obviously, be heavily diluted by whatever happens in this case.

And that really kind of leads into whether the balance of the equity clearly favors rejection of the agreement. And that requires the Court to consider not just the sacrifices or the hardship to the affected labor group here, which are very great. There is no question about that. But at bottom, it is clear that the debtors' financial situation is so precarious that even with the relief being sought here, there are still grave questions as to whether the company can reorganize and emerge from bankruptcy.

It still has to attract some additional equity in order to do that. It certainly could not emerge from bankruptcy today.

And so from the objective viewpoint, the question simply comes down to this: Which is worse, that half of the mechanics lose their jobs, or that all of the mechanics lose their jobs? Because quite clearly, if this company is not able to achieve the savings that it has sought, it is highly likely that the company would have to liquidate and go out of business, and that would mean that all of the mechanics would lose their jobs.

And so in the cosmic sense, is it fair to these employees who have worked hard, and I expect loyally, for the company all these years, to have their agreement rejected and these changes unilaterally imposed upon them by the company? No, it's not. And if life were fairer and if there were money coming available from other sources, it would make this unnecessary. I would not be in a position of having to grant the company's motion here.

But having considered all the circumstances, and although it's a close case, and I have had to wrestle with this quite a bit, I believe the company has met its burden of showing that it has satisfied the requirements for the rejection of the collective bargaining agreement. Accordingly, I am going to grant the motion and allow the company to reject the agreement.

I have been advised at the outset of this hearing that there is a proposal, I assume different from anything that I have exactly seen before, which has been sent out or is to be sent out to the union members for a vote. And I certainly, by making this ruling, do not want to discourage or foreclose the parties from continuing to negotiate in an attempt to reach a consensual resolution.

And the reason I say that is very simple. This company -- its financial situation is not going to be enhanced by labor unrest or labor strife. And I cannot decree labor peace any more than I can decree profitability. That's the job of management in terms of labor peace negotiation between the parties. But I think everybody understands what's at stake here. The question is whether there will be any jobs at all at the end of the day.

I certainly hope, even though I have granted this agreement, that the parties still will be able to reach a consensual resolution.

Let me next address the termination of the three mainline defined benefit pension plans. The company here seeks termination of the mainline defined benefit plans it maintains for its flight attendants, mechanics, and a group known as certain employees.

And I should mention that the defined benefit plan for mechanics covers only two of the three bargaining groups.

That is mechanics and related employees and the maintenance training specialists. The fleet service workers do not belong to a defined benefit pension plan. Instead, under the collective bargaining agreement, the company made payments to a national pension plan maintained by -- multi-employer pension plan maintained by the IAM. And the termination of the contributions to that plan is covered by the rejection of the collective bargaining agreement.

The three defined benefit plans I just mentioned are subject to the Employee Retirement Income Security Act of 1974, commonly known as ERISA. Among other things, ERISA establishes funding standards for a defined benefit plan. It provides for an insurance program under which the Pension Benefit Guaranty Corporation will administer an underfunded pension plan that is terminated.

Termination of a pension plan by an employer is governed by 29 USC Section 1341, which addresses both a "standard termination" and a "distress termination." It is the latter which the debtors seek to accomplish here.

In order to effect a distress termination, the plan administrator must give the PBGC and each affected party at least 60 days' written notice of intent to terminate, setting forth the proposed termination date. Additionally, the termination must not violate the terms and conditions of an existing collective bargaining agreement.

For a Chapter 11 debtor, the standards for a distress termination require that four conditions be met. First, as of the proposed termination date, the employer has filed or has had filed against it a petition for reorganization under the Bankruptcy Code. That standard has, obviously, been met in this case.

Second, the case has not, as of the proposed termination date, been dismissed. That standard, too, has been met.

Third, the employer has provided the PBGC any request for bankruptcy court approval of the termination. That standard has been met.

And the fourth is if the bankruptcy court determines that unless the plan is terminated, the employer will be unable to pay all its debts pursuant to a plan of reorganization and will be unable to continue in business outside the Chapter 11 reorganization process.

Basically, the statute requires the debtor to make a showing that it will be unable to pay all of its debts under a plan of reorganization and will be unable to continue in business outside of bankruptcy.

The purpose of this portion of the statute is to limit the cases of severe business hardship, the ability of plan sponsors to terminate their pension plans, and thereby shift liability for guaranteed benefits onto other insurance

premium payers in the PBGC program.

The reference in the statute to a plan of reorganization does not permit a distress termination simply because a particular plan requires it. Rather, the test is whether the debtor can obtain confirmation of any plan of reorganization without termination of the retirement plan.

The burden of proof for a distress termination is on the sponsor of the plan. The PBGC here has not consented to termination -- a distress termination of a plan, but it has also not opposed it and has not presented any evidence to rebut the evidentiary showing made by the debtor here.

The evidence shows that over the period from year 2005 to 2009, the payments into the pension plan for flight attendants' minimum funding contributions would be $299.3 million. For the company-sponsored plan for the IAM-represented employees, it would be $413.2 million, and for the so-called certain employees' plan it would be $274.5 million.

Now, the certain employees' plan differs from the other two in that it was frozen many years ago. And for the next two years, that is -- actually, the year that just started right now, year 2005, and 2006, there are no minimum funding contributions required into that plan.

However, starting in the year 2007, and 2008, there are contributions required. Almost half of the minimum

funding contributions for the three plans in question fall within the year 2007 to 2008.

The testimony was presented that -- expert testimony by the actuary for the plans that even if the flight attendant and mechanic plans were frozen, as the certain employees' plans are now frozen, there would still be over that same period minimum funding contributions required of some $888 million. So the freezing of plans would only save approximately $100 million.

The testimony further showed that in terms of the company's projected cash balances on a going forward basis, that assuming the company obtained all the other relief that it requested in this motion, that without termination of the defined benefit pension plans, its cash balances would be, at the end of the year, $470 million in year 2005, $361 million in the year 2006, a minus $53 million in the year 2007, a minus $234 million in the year 2008, and a minus $285 million in the year 2009.

On the other hand, if the plans were terminated, the cash balances would be far more healthy: $712 million in the year 2005, $735 million in the year 2006, $639 million in the year 2007, $657 million in the year 2008, and $738 million in the year 2009.

Although there is no plan of reorganization before the Court this time, as there was in the first Chapter 11

case when the Court considered the termination of a pilot's pension plan, there is at least the outline of a business plan, which is -- admittedly, a work in progress, not a final one -- but would, obviously, have to be the basis upon which any reorganization plan was based.

And simply looking at the dollars, it is perfectly apparent that the debtor could not propose any viable plan of reorganization without eliminating what can only be fairly described as this financial albatross, the $978 million in minimum funding contributions that would come due during the year 2005 and 2009.

A situation in which the debtor not only did not have cash at the end of the year, but was running cash deficits -- huge cash deficits -- simply could not support any conceivable plan of reorganization, nor could the company even conceivably operate -- continue to operate outside of the protection of Chapter 11 if it had to shoulder these minimum funding contributions.

Accordingly, I find that the company has met the test for a distress termination of the pension plan, and I will grant the company's motion to approve the termination of the three pension plans.

Obviously, with respect to the IAM, the ruling is tied in with the ruling allowing rejection of the collective bargaining agreement, because the collective bargaining

agreement requires that, and the debtor could not otherwise satisfy the requirement that termination not violate the terms of a collective bargaining agreement.

I will prepare and enter orders reflecting my rulings. I am going to enter separate orders with respect to the rejection and with respect to the distress termination, just because I don't want an appeal on one aspect, arguably, to rob the other of its finality.

Okay. Are there any other matters to be taken care of at this time?

MR. LEITCH: No, Your Honor. Thank you.

THE COURT: Okay. Stand adjourned.

(Whereupon, at 10:31 a.m., the hearing was adjourned.)

* * * * *

UNITED STATES BANKRUPTCY COURT

REPORTER'S CERTIFICATE

Diversified Reporting Services hereby certifies that: (A) The foregoing pages represent an accurate and complete transcription of the proceedings before the United States Bankruptcy Court, the Honorable Stephen S. Mitchell, Judge, Presiding, in the matter of USAirways; and these pages constitute the original of the proceedings.

Diversified Reporting Services, Inc.
1101 16th Street, NW
Second Floor
Washington, D.C. 20036

BY: _____
Stella Christian